

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

Examiner	:	Catherine A. Simone
Art Unit	:	1772
Applicant	:	Richard W. Nykamp et al
Serial No.	:	10/628,963
Filing Date	:	July 29, 2003
For	:	COVER FOR METAL OFFICE FURNITURE
Attorney Docket	:	076764.083552

Mail Stop Appeal Brief-Patents  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**APPEAL BRIEF**

This is an appeal from a second rejection of claims 17-19 by Examiners Simone and Pyon.

I. **Real Party in Interest**

The real party in interest is The R & D Companies, LLC of 3400 Highland Drive, Hudsonville, Michigan 49426.

II. **Related Appeals and Interferences**

Appeal No. 2005-1709 was decided in Appellant's favor in parent Application No. 09/999,400 (the "parent application"). That appeal is related to, directly affects, and has a bearing on the Board's decision in the present appeal. A copy of the decision rendered by the Board in the parent application is included in the Related Proceedings Appendix X.



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For the Board's convenience, and to the extent that it is helpful, the following is a mark-up of appealed claim 17 showing the differences from the independent claim issued in the parent application (application claim 8):

17. An article of office furniture comprising:

a metal office furniture piece including a plurality of components each having dimensions~~[, one of said components including a physical feature];~~  
and

a plurality of magnetic decorative covers, each of said covers overlying and attached to one of said components, each of said covers having dimensions substantially the same as the dimensions of the component to which the cover is attached, each of said covers comprising a magnetic sheet and a decorative material selected from the group of fabric, vinyl, leather, veneer, and laminate~~[, the decorative cover attached to said one component defining a cutout aligned with said physical feature].~~

There are no other related appeals or interferences known to the Appellant, the Appellant's legal representative, or the Appellant's assignee which may be related to, directly affect, be directly affected by, or have a bearing on the Board's decision in the pending appeal.

### III. Status of Claims

Claims 17-19 are pending and are twice rejected. Claims 1-16 are canceled. Applicant appeals with respect to claims 17-19, which stand or fall together as a group.



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#### IV. Status of Amendments

No amendment has been filed subsequent to the second rejection.

#### V. Summary of Claimed Subject Matter

##### A. Background of the Invention

Metal office furniture is one of the backbones of the office environment. Exemplary pieces include file cabinets, desks, and drawer pedestals. Metal office furniture is fabricated of steel and then painted, making it both functional and durable.

Several negative issues are related to metal office furniture. First, the appearance of such furniture typically is regarded as tolerable rather than attractive. For example, a large bank of filing cabinets presents a sea of uniform color, such as beige or gray.

Second, the colors with which the furniture is painted go out of style. To change color, it is necessary either to purchase new furniture or to repaint existing furniture. The first option is undesirably expensive, and the second option is undesirably inconvenient.

Third, the finishes of metal furniture occasionally become scratched or otherwise marred, so that they are unsightly. In such cases, it is necessary to replace the furniture (or at least the damaged components) or to repaint the furniture (or at least the damaged components).

Fourth, when additional or replacement office furniture is purchased, one challenge is matching the color of the new office furniture to the existing furniture. The new



office furniture may be made by a different manufacturer offering different colors, or may be made by the same manufacturer no longer offering the old color. Even if a color is still made by the previous manufacturer, the new office furniture may not match the existing furniture due to fading, different dye runs of paint, or changes in the manufacturing process, such as switching from a wet paint to a powder coat.

B. Claimed Subject Matter

The present invention is a system for dramatically changing the appearance of office furniture in a simple and relatively inexpensive way. The dramatic change enabled by the present invention is illustrated in the brochure entitled "Change is Good!" published by the Appellant and attached to this Appeal Brief as part of the Evidence Appendix IX. When the brochure is fully open, the left side shows the "Before" appearance of conventional painted office furniture. The right side shows the "After" appearance in which the decorative covers of the present invention are applied to the flipper doors and drawer fronts (and in which tack-boards and cushions also are included on other furniture components).

As defined in independent claim 17, the present invention is "an article of metal office furniture" comprising a metal office furniture piece 100 and a plurality of magnetic decorative covers 10. As illustrated in Figs. 1-2 and described in the specification (page 4, lines 10-22), the furniture piece is a filing cabinet. The cabinet 100 includes a plurality of components such as the drawer fronts 110. Other components include the side panels 120 and the base 130. Each of the components has dimensions. Each of the covers 10 overlies and is attached to one of



the drawer fronts 110 or other component with each cover 10 having dimensions substantially the same as the dimensions of the component to which it is attached, so that each cover substantially covers the drawer front or other component. (Page 4, lines 16-22.) The covers 10 each include a decorative layer 20 attached to a magnetic sheet 40. (Fig. 2; page 3, line 8 through page 4, line 9.)

VI. Grounds of Rejection To Be Reviewed on Appeal

A. Claim 17 is rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 3,697,363 to Martinez ("Martinez").

B. Claims 17 and 19 are rejected under 35 U.S.C. 103(a) as being obvious over Martinez in view of U.S. Patent 2,438,108 to Barler et al ("Barler").

C. Claims 17-19 are rejected under 35 U.S.C. 103(a) as being obvious over U.S. Published Patent Application 2001/0008702 to Vela ("Vela").

VII. Argument

A. The Section 102(b) Rejection of Claim 17 Based on Martinez

The rejection of claim 17 under 35 U.S.C. 102(b) as being anticipated by Martinez is improper and should be reversed.

Martinez does not disclose the recitations of independent claim 17. In particular, Martinez does not disclose "a metal office furniture piece." The Specification of the present



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invention describes metal office furniture as that which is “fabricated of steel.” (Page 1, lines 6-7.) Literally everyone knows what metal office furniture is. The Board’s offices in all likelihood are filled with it. Martinez is not metal office furniture. Specifically, the furniture piece disclosed in Martinez is fabricated of wood. (See Figs. 4, 6 and 7, and column 2, lines 55-62.) The only metal in the Martinez wooden furniture is a separate sheet of metallic material that is glued to the wood furniture. (Col. 5, lines 6-7.) Wood furniture with a small metal part is not “metal office furniture” as understood in the art and as used in the present application.

The Examiner asserts that the limitation “metal office furniture” has been given the “broadest reasonable interpretation consistent with the written description in applicant’s specification as it would be interpreted by one of ordinary skill in the art,” and that “Martinez discloses the office furniture to include a metal part (*see col. 5, lines 5-11*) and therefore is considered metal office furniture.” (Office Action mailed October 5, 2006, page 3, section 3.) Appellant submits that the opposite is true. Any interpretation of the Martinez furniture piece as “metal office furniture” is completely unreasonable, and no person of ordinary skill in the art would consider Martinez to disclose “metal office furniture” as understood by those skilled in the art and as used in the present application.

Further, the dimensions of the Martinez panel inserts 12’ or 12” are not “substantially the same as” the dimensions of the magnetic sheet elements 40’ or 40” to which the inserts are attached. Further, the inserts are not “attached to one of said components.” The Martinez inserts are attached to many elements 40 – each of which is far smaller than the insert 12. The structure is simply unlike the structure defined in claim 17.



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In view of the shortcomings of Martinez with respect to claim 17, the rejection of claim 17 under 35 U.S.C. 102(b) is improper and should be withdrawn.

B. The Section 103(a) Rejection of Claims 17 and 19 Based on Martinez and Barler

The rejection of claims 17 and 19 under 35 U.S.C. 103(a) on the hypothetical combination of Martinez and Barler is improper and/or unfounded, and should be reversed.

As noted above, Martinez discloses the use of decorative panels with wood furniture to improve or change the appearance of the wood furniture. Martinez provides no suggestion that decorative panels could somehow be used in some undisclosed fashion with metal office furniture.

Barler discloses a metal file cabinet, but Barler completely fails to disclose, teach or suggest the use of a plurality of decorative magnetic covers. In fact, Barler teaches away from the use of decorative covers by continually describing the improved appearance provided by its "pre-enameled sheet metal." (Column 1, line 13.) Barler states that "[T]he cabinet structure which comprises this invention is designed to secure attractive appearance, coupled with low cost of production," and "that [I]t is also planned so as to employ pre-coated sheets of metal which are finished with an enamel or lacquer able to withstand a limited amount of bending without cracking or crazing." (Column 3, lines 4-12.)

Neither Martinez nor Barler recognizes, let alone attempts to solve, the problem overcome by the present invention (i.e. the need to change the appearance of metal office furniture).



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Further, it is well settled that obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching, suggestion, or incentive supporting the combination. ACS Hospital Systems, Inc. v. Montefiore Hospital, 732 F.2d 1572, 1577, 221 U.S.P.Q. 929, 933 (Fed. Cir. 1984). Simply stated, Martinez and Barler are not combinable. There simply is no teaching, suggestion, or incentive supporting the combination suggested by the Examiners. Specifically, there is no suggestion in either reference, in the wooden furniture art, or the metal office furniture art to somehow combine the two references.

Notably, any attempted combination of Barler with Martinez would actually destroy the intended function of Barler by covering up Barler's attractive, pre-enameled surface.

Indeed, the only motivation for proposing the hypothetical combination of Martinez and Barler is an improper attempted hindsight reconstruction using the present specification as a roadmap. Such an approach is impermissible.

Therefore, the Section 103(a) rejection of claims 17 and 19 on the basis of Martinez and Barler is improper and should be reversed.

C. The Section 103(a) Rejection of Claims 17-19 Based on Vela

The rejection of claims 17-19 under 35 U.S.C. 103(a) over Vela is improper and/or unfounded, and should be reversed.

To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. In re Royka, 490 F.2d 981, 180 USPQ



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580 (CCPA 1974). "All words in a claim must be considered in judging the patentability of that claim against the prior art." In re Wilson, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970).

Vela discloses "magnetic material decorations" for attachment to ferrous surfaces. The decorations are intended for use as placemats or decorations. As decorations, the Vela pieces include graphics and are "die-cut or manually cut *to the shape of the graphics*." [Emphasis added.] (Paragraph 0019.) The Vela pieces are in essence large refrigerator magnets.

Vela does not disclose, teach or suggest the subject matter of the claimed invention – namely a metal office furniture piece having a plurality of components each covered by a magnetic cover "having dimensions substantially the same as the dimensions of the component to which the cover is attached." Nothing in Vela, other than impermissible hindsight, suggests the present invention as so defined.

D. Secondary Considerations Support the Lack of Obviousness

The present invention has received widespread recognition within the contract furniture industry (i.e. the office furniture industry). The invention has received a variety of national and state awards; and those awards have come from some of the most prestigious authorities in the contract furniture industry. These awards include:

- 1) The "Best of NEOCON Gold Award" for the Surfacing Materials category. The "Best of NEOCON" awards are the most prestigious and recognized awards in the contract furniture industry, and are



sponsored by *Contract Magazine*, the most highly regarded publication in the contract furniture industry.

- 2) The “Grand Prize Innovation Award” for the Workplace Aesthetics category and the “Grand Prize Innovation Award” for the Workplace Productivity category. These “Building Interiors Magazine Innovation Awards” also are prestigious, and are sponsored by *Building Interiors Magazine*, a highly regarded publication in the contract furniture industry. The present invention was the first product in the history of the awards to win back-to-back Grand Prizes.
- 3) “Honorable Mention” in the Small Business Innovation Awards in recognition of the most innovative products. These awards are made by the Small Business Association of Michigan.

The Declaration of Richard W. Nykamp discussing these awards is attached as part of Appendix IX.

The present invention also has received widespread media coverage. Copies of eight articles regarding the present invention are attached to Mr. Nykamp’s Declaration.

The Examiners assert in that the Declaration is insufficient because “facts presented are not germane to the rejection at issue and showing is not commensurate in scope with the claims. It refers only to the system described in the above referenced application and not to the individual claims of the application. . . . See MPEP 716.” Although the Examiners



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have used form paragraph 766.03 from M.P.E.P. 716, they unfortunately have not complied with the Note 2 requirement that "A full explanation must be provided, if appropriate." The Examiners have provided no explanation, let alone a full explanation, to supplement the form language. And while an explanation is required only "if appropriate," an explanation is appropriate in the present application because the Appellant frankly cannot conceive of any explanation. The Declaration and attached evidence relate directly to the claimed subject matter. In fact, there are few differences between the claimed subject matter and the described apparatus and method. All of the facts, awards, and media coverage provide incredibly strong evidence both 1) of secondary considerations of nonobviousness and 2) that those skilled in the relevant art consider the present invention to be a significant development worthy of national and state awards. It therefore is respectfully submitted that the Declaration fully complies with the requirements of 37 C.F.R. 1.132 and M.P.E.P. 716.

These secondary considerations strongly support that the present rejections are improper, made in hindsight, and should be reversed.



VIII. Claims Appendix

17. An article of office furniture comprising:

a metal office furniture piece including a plurality of components each having dimensions; and

a plurality of magnetic decorative covers, each of said covers overlying and attached to one of said components, each of said covers having dimensions substantially the same as the dimensions of the component to which the cover is attached, each of said covers comprising a magnetic sheet and a decorative material selected from the group of fabric, vinyl, leather, veneer, and laminate.

18. The article of office furniture in claim 17 wherein said magnetic sheet is flexible.

19. The article of furniture as defined in claim 17 wherein one of said decorative covers defines a cutout providing an aesthetic appearance such as a logo.



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IX. Evidence Appendix

Attached behind this page are copies of the evidence submitted pursuant to 37 C.F.R. 1.132. This evidence was attached as Appendices 1 and 2 to the Response filed September 19, 2005, and was entered in the record and considered by the Examiners as indicated on page 2 of the Final Rejection mailed December 7, 2005.

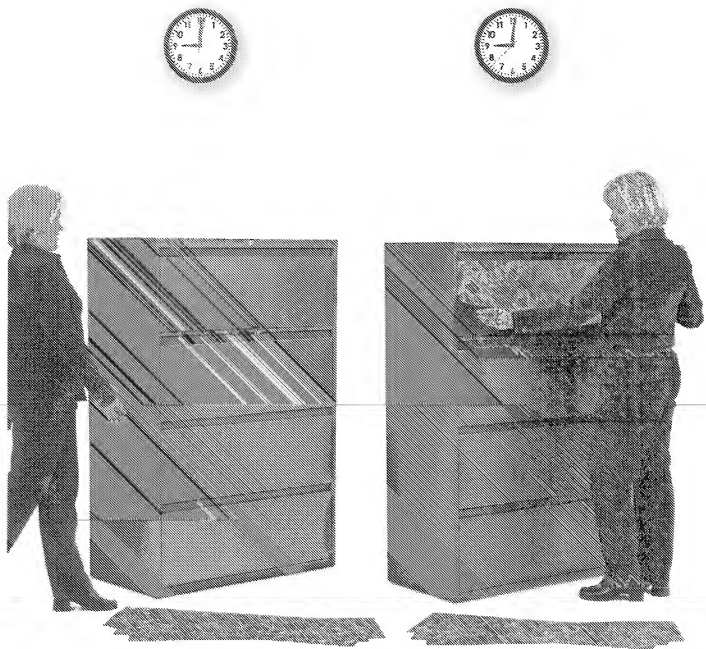


**CHANGE  
IS GOOD!**

**(AND FAST, AND EASY!)**

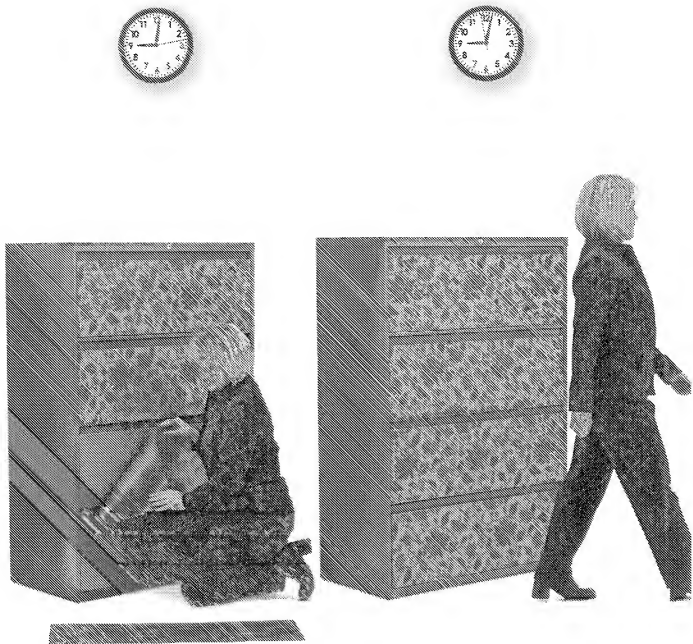
**FINCE** *ments*





Watch the dramatic visual impact of Facements unfold. The concept is simple – fabric, veneer, vinyl or dry erase surfaces are bonded to a thin magnetic backing so they can be easily applied to any metal surface.





As you can see, the results are remarkable. It's now possible to create customized workspace solutions with a minimum of time, money, and effort.

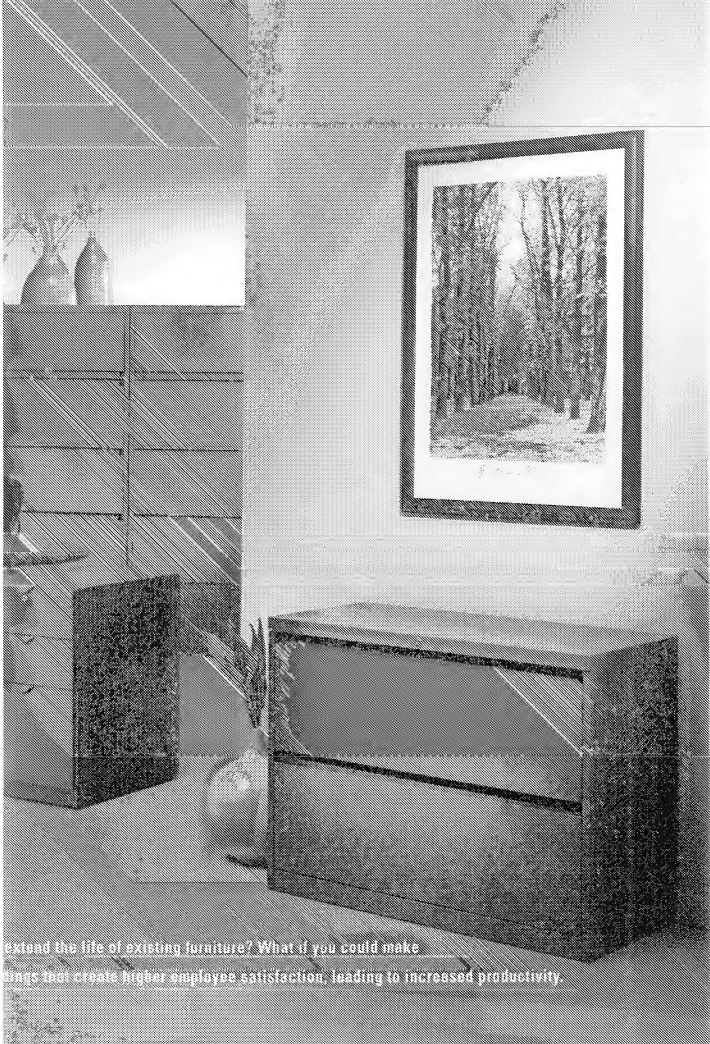




BEFORE

Nice office. Right? What if you could enhance the aesthetics of new office space or cost effective pedestal files double as seating and lateral files serve as attractive notice boards? Imagine several





extend the life of existing furniture? What if you could make  
things that create higher employee satisfaction, leading to increased productivity.

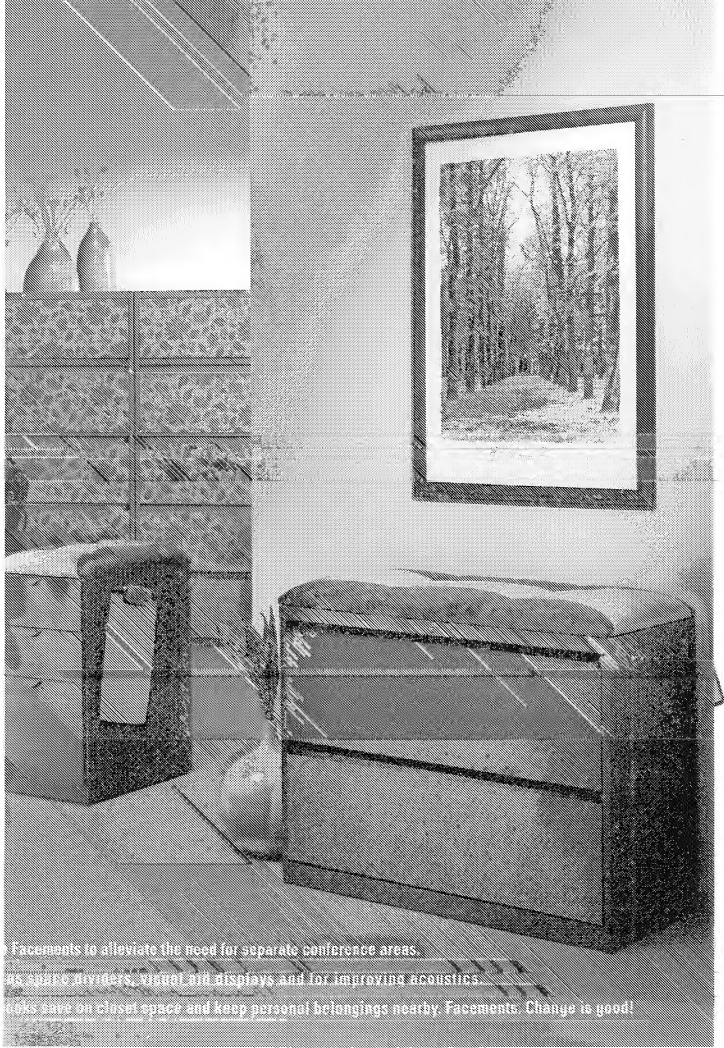




## AFTER

Facements beauty goes well beyond appearances. Overhead storage units can be covered with dry er  
Attractive tackable surfaces can be magnetically attached to lateral files making them use  
Using portable Jot Boards™ curtails paper waste and may encourage creativity. Magnetic marker



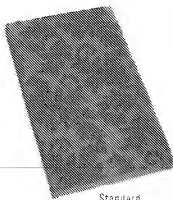


Facements to alleviate the need for separate conference areas,  
as space dividers, visual aid displays and for improving acoustics.  
Units save on closet space and keep personal belongings nearby. Facements. Change is good!

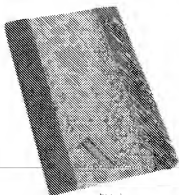


### Cushions

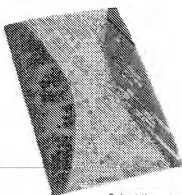
Upholstered cushions in three elegant designs magnetically attach to the tops of pedestals and lateral files.



Standard



Sideber



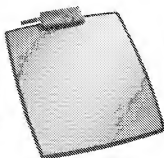
Tufted Hourglass

### Jot Boards™

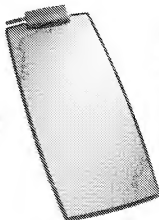
Speckle finish markerboards with magnetic backing attach to any metal surface. They're perfectly sized for laptop or desktop and come complete with self-storing eraser and marker pen.



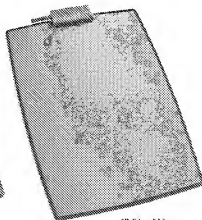
11.5" x 16"



15" x 17.5"



11.5" x 25"



17.5" x 25"

### Garment Hooks

Attach magnetically to any metal surface. Support up to 15 pounds.



## FACE

Facecents  
3400 Highland Drive  
Hudsonville, MI 49426  
P 616.692.9288  
F 616.692.9228  
[www.facecents.com](http://www.facecents.com)

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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Art Unit : 1772  
Applicants : Richard W. Nykamp et al  
Serial No. : 09/999,400  
Filing Date : November 15, 2001  
For : COVER FOR METAL OFFICE FURNITURE

Mail Stop Non-Fee Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

DECLARATION OF RICHARD W. NYKAMP PURSUANT TO 37 C.F.R. 1.132

Richard W. Nykamp declares and states that:

1. I am the President of The R & D Companies, LLC (R & D), the owner of the above identified patent application (the Application).

2. I have been involved in the contract furnishing industry (the Industry) for 30 years. During that period, I have developed considerable knowledge of contract furnishing products and innovations.

3. I am a named inventor in the Application. I am familiar with the content, including the specification and claims, of the Application. The Application discloses the product sold by R & D under the trademark FACEMENTS.

4. The FACEMENTS product has received widespread positive recognition in the Industry. In particular, the FACEMENTS product has won a number of national awards in the Industry.

5. The "Best of Neocon" awards are the most sought after and recognized awards in the Industry. The awards are sponsored by *Contract Magazine*, the most highly regarded publication in the Industry. The awards are presented annually in



conjunction with the Neocon World's Trade Fair.

6. The FACEMENTS product was awarded the "Best of Neocon Gold Award" in 2002 for the Surfacing Materials category. This award was the top award in the category. A copy of the award is attached as Exhibit A.

7. The "Buildings Interiors Magazine Innovation Awards" also are highly sought after recognized awards in the Industry. The awards are sponsored by *Building Interiors Magazine*, a highly regarded publication in the Industry.

8. The FACEMENTS product was awarded the "Grand Prize Innovation Award" in 2002 for the Workplace Aesthetics category. This award was the highest award in the category. A copy of the award is attached as Exhibit B.

9. The FACEMENTS product was awarded the "Grand Prize Innovation Award" in 2003 for the Workplace Productivity category. Again, this was the highest award in the category. A copy of the award is attached as Exhibit C.

10. The FACEMENTS product was the first product in the eight-year history of the "Buildings Interiors Innovations Awards" to win back-to-back grand prize honors.

11. The FACEMENTS product received honorable mention in the 2003 SBAM (Small Business Association of Michigan) Small Business Innovation Awards in recognition of the most innovative products introduced in 2002. A copy of the award is attached as Exhibit D.

12. The FACEMENTS product has received widespread coverage in the general press and in the contract furnishing press. Examples include the following articles, copies of which are attached as Exhibit E:

Grand Rapids Press

May 22, 2002



Monday Morning Quarterback	June 3, 2002
Buildings Interiors Magazine	August 2002
Surfacing Solutions Magazine	September 2002
FM Link (Facility Manager)	March 10, 2003 and May 16, 2003
Interiors Magazine	June 2003 Neocon Show Daily
Office Insight	June 9, 2003
Mi Biz West	June 30, 2003 and July 1, 2003

13. It is my understanding that the Patent Examiner has asserted that the FACEMENTS product is "obvious" in view of U.S. Patent 4,996,110 to Tanuma, which I have reviewed. I disagree with the Patent Examiner's assertion. In my opinion, the FACEMENTS product is not obvious in view of the Tanuma patent or any other prior art.

14. I believe that my opinion of nonobviousness is shared by others skilled in the Industry as evidenced by the awards and other recognition that the FACEMENTS product has received.

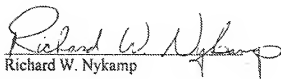
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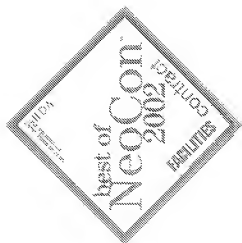
15. I hereby declare that all statements made herein of my own knowledge are true, and that all statements made on information and belief are believed to be true; and further, that these statements are made with the knowledge that willful false statements, and the like so made, are punishable by fine or imprisonment, or both, under Section 1001, Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of this application or any patent issuing thereon.

Date

7/25/03

  
Richard W. Nykamp





gold award

In recognition of a  
product of excellence  
introduced at NeoCon® 2002

Facements

Surfacing

Facements

Dave Steil, Rick Nykamp



Buildings.com

TURNING GREEN  
INTO GOLDGreen Building  
Seminar - CIB
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Express  
Your Opinion

 Tenant  
Communication?

 How do you  
communicate with  
your tenants?

☐ E-mail

## Product Detail

Product: Facements

Company: Facements

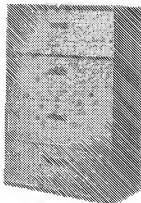
Awards: Innovations Awards 2002

Grand Prize Winner: Workplace Aesthetics

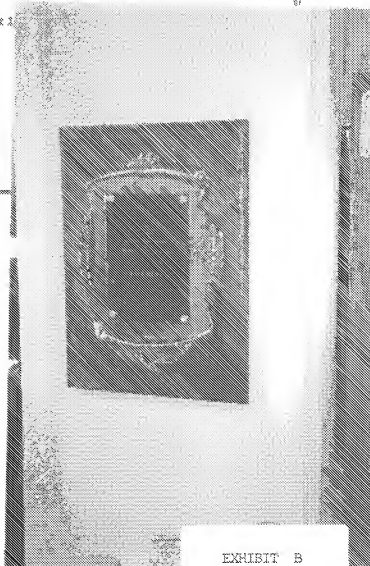
Transform cold, unattractive office furniture into a warm, aesthetically pleasing, coordinated part of the office environment. Facements are fabrics, vinyls, or veneers custom-fit and magnetically attached to metal lateral files, pedestals, flipper doors, and binder bins to add visual value. Allows unlimited aesthetics on surfaces previously limited to paint. The flexibility of Facements allows changing of colors

and patterns for additional customization in individual workstations. The enhanced appearance and noise-softening effect can also improve worker productivity. Extends existing metal furniture's useful life: Don't replace, reface.

 2002  
BUILDINGS  
Innovations  
Awards

 Grand Prize  
WINNER


Request 2







# 2003 INNOVATIONS Awards

## GRAND PRIZE WINNER

in  
Workplace Productivity

Presented by

**BUILDINGS** and

EXHIBIT C

**BIT**





## Small Business Association of Michigan

222 N. Washington Square, Suite 100  
P. O. Box 16158  
Lansing, Michigan 48901-6158

June 26, 2003

Rick Nykamp  
Facements  
3400 Highland Drive  
Hudsonville, Michigan 49426

Dear Mr. Nykamp:

Congratulations! I'm pleased to announce that you have been awarded an Honorable Mention Certificate from the 2003 Small Business Innovation Awards program in recognition of your innovative product, Facements.

A news release with a list of this year's winners was sent to news media statewide on June 26 and will also be posted on our Web site: [www.sbam.org](http://www.sbam.org)

The Awards, now in their ninth year, are sponsored by SBAM, the Small Business Foundation, Fifth Third Bank, *The Detroit News*, the Lansing Community College Small Business Development Center and the Michigan State University Office of Intellectual Property. The program gives recognition and publicity to the meritorious new products and services developed by Michigan-based small businesses during 2002.

Again, congratulations, and best wishes for the future of your innovative product.

Sincerely,

Michael W. Rogers, Vice President Communications



# Honorable Mention

*Presented to*

## Facements

The Small Business Innovation Awards program recognizes a quality that represents the pinnacle of the small business, entrepreneurial experience: the ability to develop products and services that are truly unique and serve a genuine market need. The Awards, now in their seventh year, are sponsored by the Small Business Association of Michigan, Small Business Foundation, Fifth Third Bank, The Detroit News, Michigan State University, Office of Intellectual Property, and The Lansing Community College Small Business Development Center.

June 26, 2003



*Gary M. Woodbury*  
Gary M. Woodbury, President & CEO

*Michael W. Rogers*  
Michael W. Rogers, Vice President of Compensation



# BUSINESS

THE GRAND RAPIDS PRESS

AT 10 WEEKS, THE GRAND RAPIDS PRESS IS ON A ROLL



The Facements files: Davey Steel, left, and Rish Nykamp are preparing to show their products at the NeoCon trade show in June. Their new company, Facements, applies fabric to metal filing cabinets.

## Facements puts new faces on old 'metal dinosaurs'

HUDSONVILLE

By Rob Klechrida  
The Grand Rapids Press

Suffering through one of the worst office-furniture downturns ever, Rish Nykamp and Davey Steel ran in their new Hudsonville office last year wondering how to revive their furniture-components business.

"The day we moved into our new building, the bottom fell out. We built this building for growth, but at the time, none was coming," said Steel, describing the grave financial reports in November 2001 that notified the end of the office-furniture boom.

They needed a new product and new name.

Facements was born. The idea sprouted. The entrepreneurs decided they could change the trend of an office dramatically by improving the aesthetics of file cabinets.

The pair had experience with office-

furniture fabrics. Both worked as manufacturers representatives for a major fabric company.

Nykamp and Steel applied fabric to a thin magnetic film. They custom-cut the fabric-covered film to fit on the drawer of a filing cabinet.

The fabric-covered magnetic sheets, which Nykamp and Steel called Facements, stuck solidly to the file drawers. And the investors found that they dramatically changed the look of the office.

"Files are a necessary evil, but they are metal dinosaurs," said Steel, describing the drab cabinets in many offices.

Facements, the new company with 19 employees formed by Nykamp and Steel, will unveil its products at NeoCon.

NeoCon is North America's largest office-furniture show, held annually in June in Chicago.

The Facements product can be used with any fabric, vinyl film or wood veneer.

The product allows office designers

to match the fabric or wood on chairs and cubicles to the file cabinets.

"We realized we weren't going to win the office chair or desk, but we asked ourselves: 'What if we could add personality to the office?'" Steel said.

The development of the Facements spurred other products using a magnetic backing. Nykamp and Steel found they could use fabric-covered tackboards to make the side of a file cabinet useful.

They also created patterns with the Facements.

The file cabinets became architectural elements that provided "flair in the office instead of an obstacle."

Orders already are beginning to come in. Nykamp and Steel are creating a database of furniture dimensions so the Facements fit perfectly on any file cabinet.


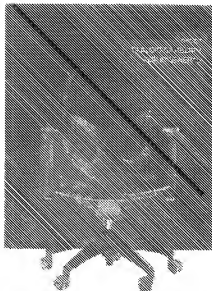
They hope to use the reaction they get from designers and visitors at NeoCon to further tweak the product.

"We expect some huge growth from this," Nykamp said.



**NeoCon**  
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MONDAY MORNING QUARTERBACK

And, as has been the case lately, it's the smaller manufacturers that have them.

And, even if you've seen all the furniture already, there are a number of good seminars and keynote speeches to keep you occupied.

The first event, the keynote address, at NeoCon this year is being sponsored by Allsteel and features John A. Challenger. Challenger is the ceo of Challenger, Gray & Christmas, Inc., an international outplacement consulting firm. His address titled "Rules of the New Workplace," will deal with the 21st Century workplace which is undergoing a process of transformation. Free agency, no-fault and instant job loss, just-in-time hiring and downsizing, shareholder-responsive boards, the loss of lifetime tenure and one-term ceos are the norm.

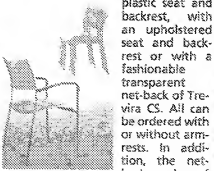
Career advice will be available at the Viscusi Career Center - Merchandise Mart Room #132 (lobby floor). You can have your resume critiqued by Stephen Viscusi and his staff. Given the state of things, this could be a very popular destination for many NeoCon attendees. The author and industry headhunter will also speak at NeoCon. Catch him on Tuesday, June 11, from 2:30-3:30pm "Jobs: How to Find Them; How to Keep Them" at Merchandise Mart Conference Ctr. #3.

Of course most facility managers and buyers attending are interested in seeing new products and solutions - otherwise why come? Below are what we see as the important products to view next week.

## What to see at NeoCon 2002

### \* Dauphin

"Open-End" is a lightweight stacking chair available in three models as a basic chair with plastic seat and backrest, with an upholstered seat and backrest or with a fashionable transparent



Open End has casters on its legs for mobility.

Dauphin will also introduce "Ready" ergonomic seating, which provides a personalized homebase for each user, with an unprecedented ability to



swivel and roll over all office terrain with its 65mm casters. Designed by Züco/Roland Zünd of Switzerland, Ready has an avant-garde look with a transparent net backrest. Plus Ready has scores of amenities to make the chair one's own: the handgrip on the backrest can include a nameplate to personalize the chair, the backrest hanger holds a jacket and the fold-away pocket stores personal belongings.

\* 11th Floor, #16-120

### \* KI

KI's new Olympia™ Chair offers high tech design softened by classic lines. The combination of the Olympia Chair's squared-off shape and contemporary mesh back produces a chair that is equally at home in both traditional and contemporary business environments.

Designed to offer a fresh perspective, while providing ergonomic support, the Olympia Chair rounds out KI's comprehensive line of task seating for the high tech/fast growth business market.

Olympia is offered in three back versions: mesh, perforated plastic, and upholstered. In addition to enhancing the chair's design appeal, the mesh back also provides dynamic posture support.



The Piretti Nesting Table, designed by Giancarlo Piretti. Created to be easily set up, moved and nested, the Piretti Nesting Table makes it easy for a single person to reconfigure a



# NeoCon 2002

room. A single flip mechanism, placed in the center of the table, and casters simplify the process.

• **Free2B™ Table Collection**

## • Spacegavver

Rotary TouchPad Release, a waist-high, electronic keypad control that's an easy-to-operate, more ADA-friendly alternative to the mechanical foot pedal and key lock. It features PIN code-access and two modes of operation — "latched," for

continuous, uninterrupted access to the system and "toggle," for access to one unit in the system at a time.

Designer Series, a first for the mobile storage industry that brings high-density mobile storage out of the back room and into the front office. Designer Series is an aesthetics package for mobile storage systems that incorporates all visible surfaces.

Space-Efficient Traverse Sequence, a lateral-track mobile storage system that can double filing density in minimum space. The modular floor, rail and carriage system, which is installed top-of-floor, can be easily reconfigured or relocated to meet changing needs.

• **Jim Allen, Book, 2002**

## • AGI

AGI launches a new trio of furnishing collections by guest designer David Allan Pessio, IDSA, that marry high quality, high design and easy elegance.

Grand Salon™ Collection providing classic lounge furniture with a distinctive, contemporary edge. With a fash-

ionably minimalist appearance and subtly ornamented, intricate detailing, the collection evokes the historic character the 1930s and 1940s to meet the complex needs of today's designers.

Free2B™ Table Collection, providing infinite creative options for



designers and specifiers. The tables support primary work surfaces or flexible work areas (such as tablet lounges) in meeting, conferencing or occasional/lounge areas for the corporate, healthcare, college/university, high tech and retail markets.

AerDyn™ Stacking Chair, combining cool metal, warm upholstery and sculpted wood. It showcases the juxtaposition of mixed media — the sculptural quality of solid bent wood and steel in a fluid, elegant and graceful line with a fully wrapped upholstered seat — to create a cohesive design solution.



• **20**  
WHERE YOU NEED TO BE

## • Facements

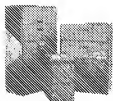
Rick Nykamp and Dave Stell sat in their Hudsonville, Michigan office last year wondering how to revive their furniture-components business.

"The day we moved into our new building, the bottom fell out. We built this building for growth, but at the time, none was coming," said Stell, describing the grave financial reports in November 2001 that marked the end of the office-furniture boom.

They needed a new product and new name.

The entrepreneurs decided they could change the look of an office dramatically by improving the aesthetics of file cabinets by applying fabric to a thin magnetic film. They custom-cut the fabric-covered film to fit on the drawer of a filing cabinet. Facements was born.

The product can be used with any fabric, vinyl film or wood veneer.



# It's Hot, Hot, Hot!

## New Fabric Program at NeoCon in Chicago

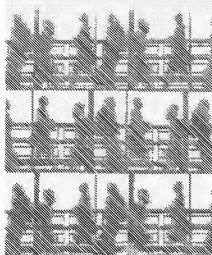
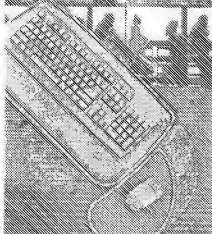
Visit booth #1001, 2nd floor. For information, call 800-969-ZOOM.



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NEW! NEW! NEW! NEW! NEW!

MONDAY MORNING QUARTERBACK

The product allows office designers to match the fabric or wood on chairs and cubicles to the file cabinets.

Facements, the new company with 15 employees formed by Nykamp and Steil, will unveil its products during NeoCon.

#### • izzydesign

Industry newcomer izzydesign begins year two at NeoCon by rolling out izzyseating, a collection of eight new styles including designs by Josep Lluisca, Zoey Chu, David Jenkins, Dennis Foley, Jeffrey Gershune and Matt



Chrostowski. Another new izzy design product is an inventive folding game and training table designed to complement izzydesign's Clara furniture collection.

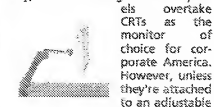
With most styles available within 48 hours, izzyseating brings a broad range of choice in seating styles and prices - from a list of \$160 for stackable Hannah to \$1,800 for the leather upholstered option of Nelson.

izzydesign will also celebrate the opening of their first showroom in the Mart.

• 11th floor, space 1100

#### • Humanscale

Flat panel monitors are going to change the modern office landscape. And with prices coming down dramatically, it won't be long before flat panel



overtake CRTs as the monitor of choice for corporate America. However, unless they're attached to an adjustable support, flat panel monitors will not be used to their full advantage. While flat panels take up less desk space than traditional monitors, the space that's freed up is typically behind the monitor, since the front of the monitor

## Connecting the Office Furniture Industry:



Get connected! The OFDA Technology Committee invites public comment on the first OFDAxml release: the OFDAxml Purchase Order schema.

OFDAxml provides a framework for the best use of data communications for the office furniture industry. Replacing the SIF text standard with a new, open XML standard, OFDAxml offers a unified way of communicating information throughout the entire order fulfillment process—from the publishing of manufacturer catalogs to the placing and shipping of consumer orders.

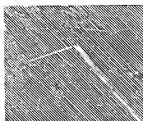
Connect with OFDAxml today. Visit [www.ofdaxml.org](http://www.ofdaxml.org) to download and comment on the new Purchase Order Schema.





**Category of Product Performance and Ease of Use**

**Grand Prize Winner: Trac-Loc by Wilsonart Flooring**



Trac-Loc is a new, patented commercial laminate flooring installation system. Consists of a separate aluminum track onto which laminate flooring planks are inserted. Edges of flooring pieces are scribed with a groove; metal track then acts as a tongue and locks into the scribed area. Installers can start in

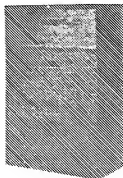
the middle of a room and work in two to four different directions, allowing multiple installers to work on the same project simultaneously. Desks and/or equipment can be put in right after installation; floor can be used immediately. When damaged, pieces are easily re-manufactured in the field. Trac-Loc by Wilsonart Flooring. Circle 353.

**Category of Safety and Accessibility**

**Grand Prize Winner: ErgoPower® Computer Tables with I-Fit® Software by XYBIX Systems Inc.**



ErgoPower X Series electric adjustable-height tables with I-Fit software control store ergonomic position specifications for an unlimited number of users. Settings can be applied to any table on the network. Logging on to the network identifies the user and permits exact replication of personal settings with the simple click of a mouse. Accessibility and compliance with ADA regulations are not optional in today's workplace, and safety as it relates to worker's compensation claims, lost time, and retraining costs is a bottom-line issue. ErgoPower achieves precise and consistent positioning without user motivation and extensive training. ErgoPower Computer Tables with I-Fit Software by XYBIX Systems Inc. Circle 354.



**Category of Workplace Aesthetics**

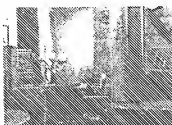
**Grand Prize Winner: Facements by Facements**

Transform cold, unattractive office furniture into a warm, aesthetically pleasing, coordinated part of the office environment. Facements are fabrics, vinyls, or veneers custom-fit and magnetically attached to metal lateral files, pedestals, flipper doors, and binder bins to add visual value. Allows unlimited aesthetics on surfaces previously limited to paint. The flexibility of Facements allows changing of colors and patterns for additional customization in individual workstations. The enhanced appearance and noise-softening effect can also improve worker productivity. Extends existing metal furniture's useful life: Don't replace, reface. Facements by Facements. Circle 355.

**Category of Workplace Flexibility**

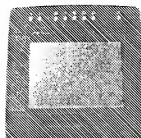
**Grand Prize Winner: Vista™ Architectural Column by The Wiremold Co.**

Cost-effective Vista architectural column incorporates full data/communications and power into any open space work environment. Series invisibly routes cabling through the column; a decorative center panel provides design flexibility, featuring solid metal, perforated metal, glass, wood, and laminate options. Series is fully configurable and changeable to blend in with any work environment. Appearing as part of the architecture, giving the appearance of "natural belonging." Vista allows for the integration of technology while blending into the environment. Vista Architectural Column by The Wiremold Co. Circle 356.



**Category of Workplace Productivity**

**Grand Prize Winner: In-Wall Rear Projection SMART Board™ 2860 Interactive whiteboard by SMART Technologies Inc.**



In-Wall Rear Projection SMART Board 2860 includes a 72-inch interactive whiteboard, mirror stand, and projector with a short-throw lens. Built into the wall or customized wall cabinet, this complete system simplifies installation, maximizes space, and enables

users to access and control computer applications by pressing on the touch-sensitive surface. Mirror Stand is only 25 1/2-inches deep, comes fully assembled, and includes a height-adjustable projector platform, reducing set-up time. Creates an open, professional work area and boosts workplace productivity with intuitive collaborative technology. In-Wall Rear Projection SMART Board 2860 by SMART Technologies Inc. Circle 357.

continued



# World trends

By Grace Jeffers



Grace Jeffers is an independent product designer and a leading lecturer on the furniture market. She is also a decorative arts historian and a lecturer in the graduate program at the Art Institute of Chicago in New York City. You may contact Grace via e-mail at [grace@furniture.com](mailto:grace@furniture.com).

## Easy office makeovers

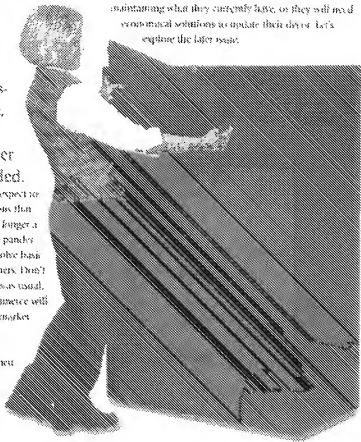
A new, magnetic, decorative product is changing the face of office furniture.

The office furniture industry is changing as we speak. The largest companies, such as Herman Miller and Steelcase, have reported staggering losses in the past two years. Avant-garde projects, including Herman Miller Red, have been disbanded.

In all this? Never! What we should expect to see in the future are innovative solutions that solve very basic problems. There is no longer a need for office furniture companies to pander to the dot.com set; instead, they will solve basic problems for their mainstream customers. Don't misunderstand me; this is not business as usual. Change is afoot, and the winds of commerce will go to the innovator who will take the market in an unprecedented direction.

In the near future we can no longer expect business customers to update their office décor infrequently and expensive remodeling jobs. You know what I mean, those "let's finish absolute

ly sweeping out and start from scratch" projects that design firms encourage. Clients will require assistance maintaining what they currently have, or they will need economical solutions to update their décor. Let's explore the latter issue.





Consumer magazines have often offered offers "easy and affordable" solutions for updating the look of their homes, but nothing of the sort has ever been applied to office design — until now. Facements is magnetic decorative product that instantly covers the surface of lateral files, changing the look and feel of those mundane cabinets immediately. In a matter of minutes those boring black or gray monstrosities can be made decorative by covering the drawer faces, side panels and back panels with a myriad of material options. Currently, Facements is offered in cherry, maple and oak veneers, vinyl laminating, marble board or fabric. Often, in large office spaces, lateral files are lined up to create "corridors" with the back of the files acting as a wall. By using Facements one can create a functional and decorative solution that also has sound-absorbing qualities. In addition to file coverage, Facements also offers cushions and tableboards.

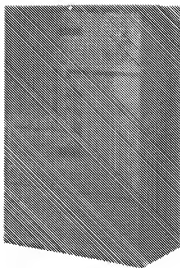
Frank Van Porceliet of Facements explains, "Large facilities don't like to buy new file cabinets, but with our product they can update their look with color and texture and even match their chair fabrics. Sometimes if you add a deskboard, an office almost seems renovated. Facements is an affordable solution, especially when compared to the cost of repainting lateral files. Before if the files had a few scratches, there was no other option but to empty out, haul, and paint the files, and then have them moved back in and restocked. This costs about

\$150 per lateral file and in the end you still have a piece of painted furniture. With Facements for \$150 you have a new looking piece of furniture."

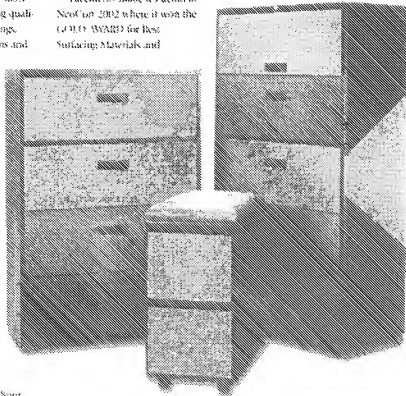
When asked about how the idea for Facements came into being, Van Porceliet explains, "Rick Stramp and Dave Moll, the owners, were trying to do something that was not currently being done, and in the realm of file cabinets there had been basically no innovation except for handles."

Facements reflects a totally different approach to the problem. As for their current customer, Van Porceliet states, "We are currently working with a lot of lateral file dealers, but designers are now starting to learn about the product. File manufacturers are also becoming interested, especially for showroom display."

Facements made its debut at NeoCon 2002 where it won the 2003 AIAA (AIAA) for Best Surfacing Materials and



Laminates, and they also received the Grand Prize for Workplace Aesthetics by *Buildings Interior magazine*. ■



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Facements adds Jot Boards, dry erase surfaces to product line

March 10, 2003—Facements, a manufacturer of functional solutions for office furniture, has unveiled a new line of Jot Boards and dry erase surfaces.

The Jot Boards, which incorporate dry erase surfaces, are portable marker pads that can be affixed to metal office surfaces. They allow engineers, managers, or executives to take a small marker board with them around the office for impromptu discussions and planning. The Jot Boards also can be photocopied to permanently capture an idea or meeting notes.

With 154 standard fabric colors, veneer, and vinyl options, Facements products can easily be coordinated to panels, carpeting, seating, and walls. The dry erase marker surfaces offer another option for re-surfacing an existing metal surface.

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With 154 standard fabric colors, veneer, and vinyl options, Facements products can easily be coordinated to panels, carpeting, seating, and walls. The dry erase marker surfaces offer another option for re-surfacing an existing metal surface.

Jot Boards are offered in a speckle finish marker board with a magnetic backing. These boards attach to any metal surface, and are available in four sizes, ranging from 11.5" x 16" to 17.5" x 25". The marker boards also come complete with a self-cleaning eraser and marker pen.

Jot Boards are currently available through Facements authorized dealers, or they can be ordered online at [Facements.com](http://Facements.com). For more information, call 616/662-0200.





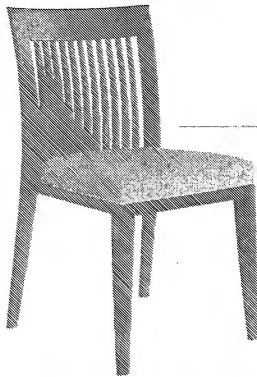
Facements introduces customized corporate logos, textiles for office furniture

May 16, 2003—Facements, a Michigan-based office furniture manufacturer, is adding customized options, dry erase surfaces, and sixty additional fabrics and finishes to its product line. They include:

- ◆ Nature Designs surfaces, which go beyond the current natural wood veneers. Plain painted surfaces can now be made to look like marble, granite, old copper, or walnut burl.
- ◆ Expressives fabric collection—more than fifty color-coordinated patterns and solids that can be used to convert unsightly metal files into aesthetic focal points. The line includes recyclable synthetics and several ultra stain-resistant Crypton fabrics.
- ◆ Jet Boards, which are portable dry erase marker pads that can be magnetically affixed to metal office surfaces. They are offered in a speckled sandstone or greystone finish and range in size from 11.5" x 16" to 17.5" x 25".
- ◆ Premier Image/Customized Logo Facements, which utilize the Facements product in conjunction with an organization's logo, messaging, or way-finding symbols. These Facements are produced from contrasting color fabrics and veneers that are cut and inlaid to match customer provided artwork.

For more information, contact [facements](http://www.facements.com) at 616/662.0200

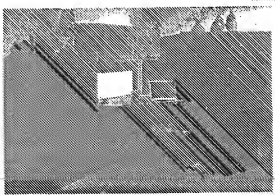




## sandler seating

2nd floor  
space a-206

Azure, one of 17 pieces from the new Belgrave collection, is a versatile beach chair designed with estates in mind. The line includes a counter stool, bar stool, and dining chair, the latter available with or without arms. Five bark styles jazz up the mix. Choose from a crosshatch design of four or 12 panels, a fully upholstered option, and vertical or horizontal slats.



## facements

2nd floor  
space 2-625

Transform those drab, gunmetal-gray file cabinets and metal office components with these magnetic panels. And they're now available in exciting fabrics and new finishes. The Festive Surfaces collection including stain- and moisture-resistant Crylon, high-contrast multicolor weaves, and durable stylanes. Note to self: Spoked dry-erase panels in sandstone or graystone convert flipper doors and binder bins into message boards or presentation media.



## roppe corporation

2nd floor  
space a-111

Featuring a top-lip design, Veneuse literally kisses the wall. With the look of custom-crafted woodwork, this wall base offers the natural beauty of wood but, thanks to a blend of TPR rubber, is resistant to tearing, chipping, scratching, and cracking. Available in 25 colors, this durable finishing detail also eliminates the inconveniences of nailing, sanding, and priming.





... NeoCon, Cont'd from page 6

all Crypton fabrics, Cheek-to-Cheek are stain-resistant, fluid-repellent, and anti-microbial. The collection is offered in 4 patterns: Samba, a solid chenille available in 21 colors; Bossa Nova, a "retro" bouclé available in 10 colors; Passa Doble, a thin chenille stripe inspired by a line dance, available in 12 colorways; and Minuet, a chenille that features a tone-on-tone pattern of two intertwining dancing leaves and is available in 10 colorways.

The Jetsetter collection is intended "to inspire people to think about some of the intriguing foreign cultures that are just a plane-ride away," according to Jane Wicks of The DesignTex Group design studio. Its patterns include Toronto, which has flowing leaves and branches and is available in eight colors; Bodrum, a faux matelassée in an embroidered Persian pattern, available in 11 residential colors; Havana, available in 13 floral colors; and Dekar, a pattern with an unusual weave that is available in an impressive 20 colorways.

DesignTex: Cheek-to-Cheek

DesignTex: Jetsetter Havana

The DesignTex Group will also present four new textural wallcoverings designed by Petty Madden exclusively for JMI Lynne. Scribble has a three-dimensional finish developed using a proprietary lenticular marquetry technique and is available in 21 colorways. Halku, Relic and Relic Stripe are intended to complement each other. Halku has a hand-woven look, while Relic and Relic Stripe evoke antique fabrics.

New Sustainable Initiative collections include Hammered Metal and Aquarium, which are both made from Duraprene, a green alternative to vinyl that is produced with water-based inks and has a recycled fiber content of 50 percent wood pulp from sustainably managed forests, 40 percent post-industrial waste, and ten percent post-consumer waste. Otoman is a new addition to the William McDonough IV Collection with a horizontal ribbed cord pattern.

DesignTex: Hammered Metal

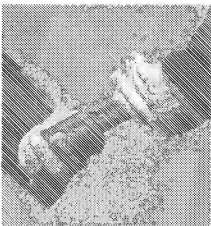
The DesignTex Group's London-based partner brand Loophouse will highlight its Manhattan Collection of rugs, available in 36 colors, while Lumicor will show off its expanded Botanicals collection of surfacing materials. For more information call 800-221-1540 or visit [www.thedesigntexgroup.com](http://www.thedesigntexgroup.com).

► Facements is adding customized options, dry erase surfaces, and 60 additional fabrics and finishes to their award-winning product line of file coverings, cushions, and tack boards that magnetically attach to existing metal office furniture. Premier Image/Customized Logo Facements may be printed with a corporate logo, messaging, or way-finding symbols. "Custom logo Facements help organizations internally brand or message themselves while making existing furniture more attractive. A company can co-ordinate their logo or message with their corporate colors or the surrounding fabrics and finishes," says company president Rick Nykamp. "Using inlays of different color fabrics or different species of natural wood veneer allows us to create unique results unavailable by other means." Nature Designs imitate marble, granite, old copper, or walnut burl. The Expressives fabric collection features more than 50 color-coordinated patterns and solids, including recyclable synthetics and stain-resistant Crypton fabrics. Dot Boards are portable dry erase marker pads that can be affixed to metal office surfaces. For more information, call (616) 662-0200 or visit [www.facemts.com](http://www.facemts.com).

Facements: Krispy Krema

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Cont'd on page 9, NeoCon ...



# MiBiz<sup>®</sup>west

Michigan's Business Advocate

JUNE 30,  
Vol. 19

## NeoCon honors four West Michigan firms

CHICAGO — West Michigan office furniture manufacturers grabbed their share of the gold and silver in the 13<sup>th</sup> annual Best of NeoCon product competition.

Hudsonville-based Facements became the first company in the eight-year history of *Buildings* and *BI-Buildings Interiors* magazines' Innovations Awards to earn back-to-back Grand Prize honors. Facements earned a 2003 *Buildings* Innovations Award in the Workplace Productivity category for its line of surface enhancements for metal office furniture that feature dry erase boards and tack boards. Last year Facements took the Grand Prize in the Workplace Aesthetics category with the introduction of its unique product, The Facements product line includes over 150 different customized file coverings made of fabric, veneer and functional marker board surfaces. This year the company introduced new finishes, including marble, granite, old copper and brushed stainless steel.

Steelecase Inc. was a double winner at this year's NeoCon World's Trade Show. The Grand Rapids firm's Universal Storage product earned the Gold Award in the Filing & Storage category. The freestanding storage platform offers a variety of products and interior configurations. Multiple front styles in steel or wood, plus glass options like beveled doors, skylight tops and shelves add to the line's design flexibility. Many of the Universal Storage cases are stackable and some components can rotate 180 degrees to enable shared access. From full front towers, shelving verticals and pedestals to lateral files and wardrobe cabinets, all of the Universal Storage components can integrate into existing Steelecase systems.

Steelecase took a Silver Award in the Furniture System, New Components category for the Pathways Technology Wall



Facements earned back-to-back Grand Prize honors in the *Buildings* and *BI-Buildings Interiors* magazines' Innovations Awards competition. Facements earned a 2003 award in the Workplace Productivity category for its line of surface enhancements for metal office furniture.

gives users advanced technology management capabilities. It features four different ways for users to access power and data in the panel. Internally it has extensive cable capacity and routing options. Pathways Ports are interchangeable modules that take advantage of the depth of the panel and can be integrated into the Technology Wall to provide data and communications options

Zachard-based He Miller Inc. won the Award in the Sea Desk/Workstation category for the 2 work chair. Mirra was named as an ergonomically free chair for the priced segment. It uses both passive and active seating adjustment to deliver natural posture and long-term comfort for any size of body types and turns. Its trademark Triflex bucket braces to the sitter's hip and shape automatic.

Nucraft Furniture in Grand Rapids nabbed Gold Award in the T. Electrified category. Avid conference. Avid employees can see it, now you can approach to technical integration by having number of diverse ergonomic components cleverly concealed in structure underneath fabric. It has a retractable LED lighting system component storage

tem for audio, video and teleconferencing equipment, a retractable tech wall to electronics in tabletop level and a so-called wire management system.

The Best of NeoCon award winner chosen by a group of judges comprises facilities managers and select members of the International Interior Design Association. This year's competition features







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X. Related Proceedings Appendix

Attached behind this page is a copy of the decision rendered by the Board in the Appeal in the parent application. This decision is identified in Section II above pursuant to 37 C.F.R. 41.37(c)(1)(ii).



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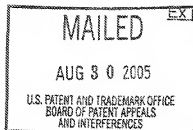
CHARLES E. BURPEE

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

Ex Parte RICHARD W. NYKAMP and DAVID A. STEIL



Appeal No. 2005-1709  
Application No. 09/999,400

ON BRIEF

Before MCQUADE, NASE and BAHR, Administrative Patent Judges.  
BAHR, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal from the examiner's rejection of claims 8-10, which are all of the claims pending in this application.

BACKGROUND

The appellants' invention relates to decorative covers for office furniture (specification, page 1). Independent claim 9 is representative of the invention and reads as follows:



9. An article of office furniture comprising:  
a metal office furniture piece including a plurality of components each having dimensions, one of said components including a physical feature; and  
a plurality of magnetic decorative covers, each of said covers overlying and attached to one of said components, each of said covers having dimensions substantially the same as the dimensions of the component to which the cover is attached<sup>11</sup>, each of said covers comprising a magnetic sheet and a decorative material, the decorative cover attached to said one component defining a cutout aligned with said physical feature.

#### ***The Applied Prior Art***

The examiner relied upon the following prior art references of record in rejecting the appealed claims:

Malino	5,799,423	Sep. 1, 1998
Blyden et al. (Blyden)	6,217,958	Apr. 17, 2001

#### ***The Rejection***

The following rejection is before us for review.

Claims 8-10 stand rejected under 35 U.S.C. § 103 as being unpatentable over Malino in view of Blyden.

Rather than reiterate the conflicting viewpoints advanced by the examiner and the appellants regarding the above-noted rejection, we make reference to the answer (mailed April 21, 2004) for the examiner's complete reasoning in support of the rejection

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<sup>1</sup> As illustrated in Figures 1 and 3 of the present application, each decorative panel has surface dimensions which are substantially the same as the dimensions of the face of the component to which it is attached. Thus, in accordance with the appellants' underlying disclosure, we interpret the "each of said covers having dimensions substantially the same as the dimensions of the component to which the cover is attached" limitation in claim 9 as requiring that each cover have surface dimensions which are substantially the same as the dimensions of the face of the component to which it is attached.



and to the brief (filed January 15, 2004) and reply brief (filed June 1, 2004) for the appellants' arguments thereagainst.

### OPINION

In reaching our decision in this appeal, we have given careful consideration to the appellants' specification and claims, to the applied prior art references, and to the respective positions articulated by the appellants and the examiner. For the reasons expressed below, we conclude that the teachings of the applied references are insufficient to establish a *prima facie* case of obviousness of the subject matter of the appellants' claims.<sup>2</sup>

Malino discloses a magnetic calendar which is magnetically held to a metal surface such as a refrigerator door or file cabinet, as illustrated in Figures 2 and 6. Malino's calendar is not disclosed as having dimensions substantially the same as those of the component to which it is attached, as called for in appellants' claim 9. In fact, the calendar is shown in Figures 2 and 6 to have substantially smaller dimensions than those of the component to which it is attached. Moreover, Malino's calendar lacks a cutout aligned with a physical feature of the component to which it is attached, as also called for in claim 9. As also recognized by the examiner, Malino discloses only a single calendar, not a plurality of magnetic decorative covers each overlying and attached to one of the components, as required by claim 9.

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<sup>2</sup> Accordingly, it is not necessary for us to specifically address the secondary considerations raised by the appellants on pages 12 and 13 of the brief.



Blyden discloses an ornamental device for a hood of a car comprising a first weather resistant layer having a design printed or placed thereon and a second layer having magnetic properties for attaching the device flatly and firmly to the hood of a car to decorate the car. Blyden's teachings are expressly limited to an ornamental device for the hood of an automobile (column 1, lines 11-18, and column 5, lines 5-20) and are in no way directed to office furniture. Accordingly, Blyden would not have provided any suggestion to one of ordinary skill in the art to modify the dimensions of the calendar of Malino to substantially correspond to those of the component of furniture to which it is attached.

Furthermore, Blyden provides no teachings with regard to a cutout aligned with a physical feature of the component to which the ornamental device is attached. The examiner's statement, on page 6 of the answer, that "it would be obvious to provide a cutout to avoid covering the handle and rendering the furniture useless" is not well taken, as it presumes that one of ordinary skill in the art would have been led by the teachings of Malino to place the calendar at a location on the furniture, such as the front face of a file cabinet drawer or a refrigerator door, such that it would, without a cutout, overly a handle and Malino provides no such teaching or suggestion.

As should be apparent from the foregoing, we fail to perceive any teaching, suggestion or incentive in the applied references which would have motivated an artisan to modify Malino in such a fashion as to meet the terms of claim 9. From our perspective, the only suggestion for the modifications proposed by the examiner is



found in the luxury of hindsight accorded one who first viewed the appellants' disclosure. This, of course, is not a proper basis for a rejection. See In re Fritch, 972 F.2d 1260, 1266, 23 USPQ2d 1780, 1784 (Fed. Cir. 1992). The rejection of claim 9, as well as claims 8 and 10 which depend therefrom, as being unpatentable over Malino in view of Blyden is reversed.

#### CONCLUSION

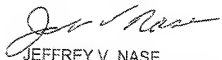
To summarize, the decision of the examiner to reject claims 8-10 under 35 U.S.C. § 103 is reversed.



No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a).

REVERSED

  
JOHN P. MCQUADE  
Administrative Patent Judge

  
JEFFREY V. NASE  
Administrative Patent Judge

  
JENNIFER D. BAHR  
Administrative Patent Judge

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WARNER NORCROSS & JUDD LLP  
900 FIFTH THIRD CENTER  
111 LYON STREET, N.W.  
GRAND RAPIDS, MI 49503-2487



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In summary, the Examiners' rejections under 35 U.S.C. 102(b) and 103 are improper and/or unfounded, and should be reversed. The strong evidence of secondary considerations supports the requested reversal.

Respectfully submitted,

RICHARD W. NYKAMP ET AL

By: Warner Norcross & Judd LLP

/Charles E. Burpee/

Charles E. Burpee  
Registration No. 29 776  
900 Fifth Third Center  
111 Lyon Street, N.W.  
Grand Rapids, MI 49503-2489  
(616) 752-2141

CEB/pas  
1360389-3